

NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

SPDES GENERAL PERMIT
FOR STORMWATER DISCHARGES

from

MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS
(MS4s)

Permit No. GP-02-02

Issued Pursuant to Article 17, Titles 7, 8 and Article 70
of the Environmental Conservation Law

Effective Date: January 8, 2003

Expiration: January 8, 2008

Address:

NYS DEC
Div. Environmental Permits
625 Broadway
Albany, N.Y. 12233-1750

Date: January 8, 2003

William R. Adriance
Chief Permit Administrator
Authorized Signature



**State Pollutant Discharge Elimination System
General Permit for
Discharges from Small Municipal¹ Separate Storm Sewer Systems (MS4s)**

Preface

Authorization to Discharge Under the State Pollutant Discharge Elimination System

In accordance with the provisions of the Clean Water Act, as amended, (33 U.S.C. 1251 et. seq.) operators of small municipal separate storm sewer systems (MS4s), located in New York State, are authorized to discharge to Waters of the United States² in accordance with the conditions and requirements set forth herein.

Only those operators of stormwater discharges from small MS4s who prepare a stormwater management program and submit a Notice of Intent in accordance with Part II of this permit are authorized to discharge under this general permit.

¹ The term "municipal" referred to in the federal rule which describes the Phase II stormwater program includes not only the State's municipal governments (cities, towns, villages and counties), but *any* publicly funded entity that owns or operates a separate stormwater sewer system. Examples of other public entities that are included in this program include the State Department of Transportation, State University Campuses, federal and State prisons, State and federal hospitals, Thruway and Dormitory Authorities, public housing authorities, school and other special districts.

² "Waters of the United States" means:

- (a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; and
 - (b) All interstate waters, including interstate "wetlands;" and
 - (c) All other waters such as interstate lakes; rivers; streams (including intermittent streams), mudflats; sandflats; wetlands; sloughs; prairie potholes; wet meadows; playa lakes; or natural ponds; the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes; or
 - (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - (3) Which are used or could be used for industrial purposes by industries in interstate commerce; and
 - (d) All impoundments of waters otherwise defined as waters of the United States under this definition; and
 - (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition; and
 - (f) The territorial sea; and
 - (g) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.
- Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA are not waters of the United States. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the United States (such as disposal areas in wetlands) nor resulted from the impoundment of waters of the United States.

An operator may³ obtain coverage under this general permit by submitting a Notice of Intent (NOI) to the address provided on the NOI form. Copies of this General Permit and the NOI form for New York are available by calling (518) 402-8109 or any Department of Environmental Conservation (The Department) regional office⁴. This general permit will also be made available on the Department's website at:

www.dec.state.ny.us

Submitting an NOI is an affirmation that an initial stormwater management program (SWMP) has been established and will be implemented in accordance with the terms of this permit. Authorization under this general permit occurs five (5) calendar days after receipt by the Department of the NOI.

³ "may" refers to circumstances under which the operator is ineligible for coverage under this general permit because of other provisions of this permit. Operators that are excluded from coverage under this general permit as provided for in Part I, Section C, for example, are not authorized to discharge under this permit. This also applies to possible situations in which an NOI has been submitted and/or a regulatory fee paid pursuant to Article 72 of the ECL. The submittal of an NOI and/or regulatory fee has no bearing or relevance whatsoever on the eligibility of the MS4 to discharge stormwater runoff under the authority of this permit.

⁴ See Appendix A, List of DEC addresses.

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Part I. Coverage Under This Permit

A. Permit Area

1. This permit covers all areas and waters of New York State.

B. Eligibility

1. This permit authorizes discharges of stormwater from small municipal separate storm sewer systems (MS4s) as defined in 40 CFR 122.26(b)(16) .
2. This permit authorizes the following non-stormwater discharges provided the Department has not determined them to be substantial contributors of pollutants to a particular small MS4 applying for coverage under this permit. If the Department does determine that one or more of the discharges listed below is a substantial contributor of pollutants to an MS4, the identified discharges will be considered illicit. In that event, the MS4 must follow the requirements in the illicit discharge minimum measure for those particular discharges (See Part IV.B.3).
 - a) water line flushing
 - b) landscape irrigation
 - c) diverted stream flows
 - d) rising ground waters
 - e) uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20))
 - f) uncontaminated pumped ground water
 - g) discharges from potable water sources
 - h) foundation drains
 - i) air conditioning condensate
 - j) irrigation water
 - k) springs
 - l) water from crawl space and basement sump pumps
 - m) footing drains
 - n) lawn watering runoff
 - o) water from individual residential car washing
 - p) flows from riparian habitats and wetlands
 - q) dechlorinated swimming pool discharges
 - r) residual street wash water
 - s) discharges or flows from fire fighting activities
 - t) dechlorinated water reservoir discharges
 - u) any SPDES permitted discharge

Even if the non-stormwater discharges are determined not to be substantial contributors of pollutants, the Department recommends that the MS4's stormwater management program include public education and outreach activities directed at reducing pollution from these discharges.

C. Limitations on Coverage

The following discharges are not authorized by this permit:

1. Stormwater discharges that are mixed with non-stormwater or stormwater associated with industrial activity unless such discharges are:
 - a) in compliance with a separate SPDES permit, or
 - b) identified by and in compliance with Part I.B.2 of this permit.
2. Stormwater discharges whose unmitigated, direct, indirect, interrelated, interconnected, or interdependent impacts would jeopardize a listed endangered or threatened species or adversely modify designated critical habitat.
3. Stormwater discharges or implementation of an MS4's stormwater management program, which adversely affect properties listed or eligible for listing in the National Register of Historic Places, unless the MS4 is in compliance with requirements of the National Historic Preservation Act and has coordinated with the appropriate State Historic Preservation Office any activities necessary to avoid or minimize impacts.
4. Stormwater discharges to territorial seas, the contiguous zone, and the oceans unless such discharges are in compliance with the ocean discharge criteria of 40 CFR 125 subpart M.
5. Stormwater discharges, the permitting of which is prohibited under 40 CFR 122.4 and/ or the Environmental Conservation Law.

D. Obtaining Authorization

In order for stormwater discharges from small MS4s to be authorized under this general permit, a operator must:

1. Submit a Notice of Intent (NOI) in accordance with the requirements of Part II, using an NOI form provided by the Department⁵ (or a photocopy thereof).
2. Where the operator changes, or where a new operator is added after the submittal of an NOI under Part II, a new NOI must be submitted in accordance with Part II.
3. Unless notified by the Department to the contrary, operators who submit an NOI in accordance with the requirements of this permit are authorized to discharge stormwater from small MS4s under the terms and conditions of this permit five (5) days after the date that the NOI is received by the Department. In the Department's sole discretion, it may deny coverage under this permit and require submittal of an application for an individual SPDES permit based on a review of the NOI or other information (see Part VI.N of this permit).

Part II. Notice of Intent Requirements

A. Deadlines for Notification

1. Operators of regulated small MS4s that have been automatically designated under 40CFR Section 122.32(a)(1) must obtain coverage under a SPDES permit, or modify coverage under an existing SPDES permit, by 3/10/03.
2. Operators of regulated small MS4s designated by the Department under 40CFR Section 122.32(a)(2) must obtain coverage under a SPDES permit, or modify an existing SPDES permit, within 180 days of notice of such designation.
3. Operators of unregulated small MS4s may apply for coverage under this permit at any time.

B. Where to Submit

NOIs, signed in accordance with Part VI.I of this permit, are to be submitted to:

⁵ NOI forms are available for download at the Department's website: <http://www.dec.state.ny.us>

NYS DEC "Notice of Intent"
Bureau of Water Permits
625 Broadway 4th Floor
Albany, NY 12233-3505

Part III. Special Conditions

A. Discharge Compliance With Water Quality Standards

Where a discharge is already authorized under this permit and is later determined to cause or have the reasonable potential to cause or contribute to the violation of an applicable water quality standard, the DEC will notify the MS4 of such violation(s) and may take enforcement actions for such violations. The MS4 must take all necessary actions to ensure future discharges do not cause or contribute to the violation of a water quality standard, and the MS4 must document these actions in the stormwater management plan. If violations remain or re-occur, then coverage under this permit may be terminated by the DEC at its sole discretion, and an alternative general permit or individual permit may be issued. Compliance with this requirement does not preclude any enforcement activity as provided by the Clean Water Act (CWA) or State law for the underlying violation.

B. Impaired Waters (303(d) and TMDL)⁶

1. 303(d) Listed Waters:

If stormwater discharges to a 303(d) listed water, the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water. The 303(d) list is available on the Department's website at www.dec.state.ny.us/website/dow/303dcalm.pdf. This list is updated approximately every two years.

2. Total Maximum Daily Load (TMDL) Strategy

⁶ Section 303(d) of the federal Clean Water Act requires the Department to periodically to prepare a list of all surface waters in the state for which beneficial uses of the water – such as for drinking, recreation, aquatic habitat, and industrial use – are impaired by pollutants. These are water quality-limited estuaries, lakes, and streams that fall short of state surface water quality standards, and are not expected to improve within the next two years.

Waters placed on the 303(d) list require the preparation of Total Maximum Daily Loads (TMDLs), a key tool in the work to clean up polluted waters. TMDLs identify the maximum amount of a pollutant to be allowed to be released into a waterbody so as not to impair uses of the water. TMDLs allocate that amount among various sources. In addition, even before a TMDL is completed, the inclusion of a water on the 303(d) list can reduce the amount of pollutants allowed to be released under permits issued by the Department.

If a TMDL has been approved by EPA for any waterbody or watershed into which an MS4 discharges, the MS4 must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If an MS4 is not meeting the TMDL stormwater allocations it must, by September 10, 2003, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

If a TMDL is approved in the future by EPA for any waterbody or watershed into which an MS4 discharges, the MS4 must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If an MS4 is not meeting the TMDL stormwater allocations, it must, within six (6) months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

Modifications must be considered for each of the six minimum measures. The revised stormwater management program must include an updated schedule for implementation. Waters that have approved TMDLs are listed on the 303(d) list on the Department's website (www.dec.state.ny.us/website/dow/303dcalm.pdf).

Part IV. Stormwater Management Program (SWMP)

A. SWMP Coverage Area

At a minimum, MS4s are required to develop SWMPs in the automatically and additionally designated areas (40CFR Section 122.32(a)1 or 122.32(a)2) under their jurisdiction⁷. SWMP coverage shall include all areas under their jurisdiction which drain directly or indirectly to either an MS4 or to the Waters of the United States.

⁷ The purpose of this section is to minimize conflicts between adjacent MS4s. For purposes of this general permit, areas under the MS4's jurisdiction shall mean areas where the legal authority exists for the subject MS4 to develop and implement an SWMP including the six minimum measures. It is not a permit requirement for MS4s to implement and enforce any portion of their SWMP in any area that is under the jurisdiction of another MS4. For example, if a portion of a town drains directly into a stormwater system owned and operated by the State DOT, and this area of the town is regulated, the DOT will not be required to implement and enforce any portion of a SWMP program in the area lying outside of its right of way. In this case, the town would be required to implement the program in the subject area in accordance with this permit, this despite the fact that the subject drainage does not directly enter the town's system.

Operators of small MS4s that have only a portion of their jurisdiction regulated are encouraged to include the entire portion under their jurisdiction in their SWMP⁸.

B. Requirements

Operators must develop, implement, and enforce a stormwater management program (SWMP) designed to reduce the discharge of pollutants from small MS4s to the maximum extent practicable (MEP)⁹ in order to protect water quality and to satisfy the appropriate water quality requirements of the Environmental Conservation Law and the Clean Water Act. The SWMP must include the minimum control measures described in section (B) of this Part.

Guidance on developing SWMPs is available from the Department on its website. In addition, examples of successful SWMPs and suggested measurable goals are provided in EPA's Menu of BMPs¹⁰ available from its website. Note that this information is for guidance purposes only. An MS4 may choose to implement or develop equivalent methods to demonstrate compliance with the minimum control measures.

Operators must develop the initial SWMP prior to March 10, 2003 and provide adequate resources to fully implement the SWMP no later than five years from the issuance date of this permit. An MS4 may modify its SWMP at any time. Any changes to a SWMP shall be reported to the Department in the MS4's annual report. (See Part V-C) MS4s are required to make steady progress toward full implementation.

C. Minimum Control Measures

⁸ Urbanized Areas (UAs), which outline the extent of automatically regulated areas, often do not extend to the political boundaries of a city, town, or village. SWMP programs are only required within the UA. However, DEC encourages communities to voluntarily extend their SWMP programs to their entire jurisdiction.

⁹ "Maximum Extent Practicable" is a technology-based standard established by Congress in the Clean Water Act §402(p)(3)(B)(iii). Since no precise definition of MEP exists, it allows for maximum flexibility on the part of MS4 operators as they develop their programs. (40CFR 122.2 See also: Stormwater Phase II Compliance Assistance Guide EPA 833-R-00-002, March 2000)

¹⁰ BMP is an abbreviation for "Best Management Practice" and is referred to in EPA's fact sheets and other materials. BMPs are described as "activities" or "management practices" throughout Part IV and the rest of this document

The six (6) minimum control measures to be included in a SWMP are:

1. Public Education and Outreach on Stormwater Impacts

An MS4 must, at a minimum:

- a) plan and conduct an ongoing public education and outreach program designed to describe:
 - i) the impacts of stormwater discharges on waterbodies
 - ii) pollutants of concern and their sources
 - iii) steps contributors of these pollutants can take to reduce pollutants in stormwater runoff
 - iv) steps contributors of non-stormwater discharges can take to reduce pollutants (non-stormwater discharges are listed in Part I.B.2)
- b) develop measurable goals and select appropriate education and outreach activities to ensure the reduction of all pollutants of concern in stormwater discharges to the maximum extent practicable. The Department recommends MS4s follow the guidance on planning public education and outreach activities available from DEC and/ or EPA.

2. Public Involvement/Participation.

An MS4 must, at a minimum:

- a) comply with State and local public notice requirements when implementing a public involvement/participation program.
- b) comply with public participation and involvement provisions of the CWA as applicable.
- c) design and conduct a public involvement/participation program which:

- i) identifies key individuals and groups, public and private, who are interested in or affected by the stormwater permitting program
- ii) identifies types of input the MS4 would seek from them to support development and implementation of the program and how it is used
- iii) describes the public involvement/participation activities the MS4 will undertake to provide program access to those who want it and to gather the needed input.

Guidance for designing and conducting public involvement activities to support planning and implementing a SWMP is available from the Department and/or EPA websites.

- d) identify a local point of contact for public concerns regarding stormwater management and compliance with this permit. The name or title of this contact and the telephone number must be published in public outreach and public participation materials and kept updated with the Department.
- e) prior to submitting the annual report (see Part V.C.), present the draft annual report at a meeting that is open to the public, where the public attendees are able to ask questions about and make comments on the report. This can be a regular meeting of an existing board within the MS4, such as planning or zoning or the town board, etc.
- f) make public the following information:
 - i) the placement of the report on the agenda of this meeting;
 - ii) the opportunity for public comment;
 - iii) the date and time of the meeting; and
 - iv) the availability of the draft report for prior review.

The Department recommends that announcements be sent directly to individuals

(public and private) known to have a specific interest in stormwater management in the municipality. Recommendations for publicizing this public review opportunity are available from the Department and/ or EPA websites.

- g) Include a summary of comments and intended responses in the annual report and make the final report available for public inspection.
- h) develop measurable goals and select appropriate public involvement activities to ensure the reduction of all of the pollutants of concern in stormwater discharges to the maximum extent practicable. The Department recommends following the guidance on planning public involvement/participation available from the Department and/ or EPA.

3. Illicit Discharge Detection and Elimination.

An MS4 must, at a minimum:

- a) develop, implement and enforce a program to detect and eliminate illicit¹¹ discharges (as defined at Section 122.26(b)(2)) into the MS4;
- b) develop and maintain a map, showing the location of all outfalls¹² and the names and location of all waters of the United States that receive discharges from those outfalls;
- c) to the extent allowable under State or local law, effectively prohibit, through ordinance, or other regulatory mechanism, illicit discharges into the storm sewer system and implement appropriate enforcement procedures and actions;

¹¹ Examples of illicit discharges are non-permitted sanitary sewage, garage drain effluent, and waste motor oil. However, an illicit discharge could be any other non-permitted discharge which the MS4 or DEC has determined to be a substantial contributor of pollutants to the stormwater collection system.

¹² An "outfall" is defined as any point where a separate storm sewer system discharges to either the Waters of the United States or to another MS4. Outfalls include discharges from pipes, ditches, swales, and other points of concentrated flow. However, areas of non-concentrated (sheet) flow which drain to the Waters of the United States or to another MS4's system are not considered outfalls and should not be identified as such on the system map.

- d) develop and implement a program to detect and address non-stormwater discharges, including illegal dumping, to the system;
- e) inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste;
- f) address the following categories of non-stormwater discharges or flows as necessary¹³:

Water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space and basement sump pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, street wash water, and fire fighting activities;

- g) develop measurable goals and select appropriate management practices to ensure the reduction of all pollutants of concern from illicit discharges to the stormwater system to the maximum extent practicable. Guidance on how to comply with illicit discharge elimination requirements is available from the Department and/ or EPA websites.

4. Construction Site Stormwater Runoff Control.

- a) An MS4 must, at a minimum, develop, implement, and enforce a program to reduce pollutants in any stormwater runoff to the small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. Control of stormwater discharges from construction activity disturbing less than one acre must be included in the program if:

- i) that construction activity is part of a larger common plan of development

¹³ The listed discharges are normally acceptable. An otherwise permitted non-stormwater discharge need only be addressed for elimination if it is determined to be a substantial contributor of pollutants to the Waters of the United States.

or sale that would disturb one acre or more or

ii) if controlling such activities in a particular watershed is required by the Department.

b) At a minimum, a program must provide equivalent protection to the NYS SPDES General Permit for Stormwater Discharges from Construction Activities and must include the development and implementation of:

- i) an ordinance or other regulatory mechanism to require erosion and sediment controls,
- ii) requirements for construction site operators to implement erosion and sediment control management practices,
- iii) sanctions to ensure compliance to the extent allowable by State or local law.
- iv) requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;
- v) procedures for site plan review that incorporate consideration of potential water quality impacts and review of individual pre-construction site plans to ensure consistency with local sediment and erosion control requirements;
- vi) procedures for receipt and consideration of information submitted by the public;
- vii) procedures for site inspections and enforcement of control measures including steps to identify priority sites for inspection and enforcement based on the nature of the construction activity, topography, and the characteristics of soils and receiving water;

- viii) education and training measures for construction site operators about the requirement to develop and implement a Stormwater Pollution Prevention Plan (SWPPP) and any other requirements they must meet for construction sites within the MS4's jurisdiction.
- ix) measurable goals and appropriate management practices to ensure the reduction of all pollutants of concern in construction stormwater discharges tributary to the MS4's system to the maximum extent practicable. Guidance on development of measurable goals is available from the Department and/ or EPA websites.

5. Post-Construction Stormwater Management

An MS4 must, at a minimum:

- a) develop and implement a program that
 - i) includes a combination of structural and/or non-structural management practices appropriate for the community that will reduce the discharge of pollutants to the maximum extent practicable; and
 - ii) adopts an ordinance or other regulatory mechanism to address post-construction runoff from new development and re-development projects to the extent allowable under State or local law; and
 - iii) ensures adequate long-term operation and maintenance of management practices, including monitoring to determine whether the practices are reducing the discharge of pollutants to the maximum extent practicable.
- b) develop, implement, and enforce a program to address stormwater runoff from new development and redevelopment projects that disturb greater than or equal to one acre. This includes projects of less than one acre that are part of a larger common plan of development or sale, or that have been designated by the Department to protect water quality, and to control water quantities that discharge into a small MS4. The program must ensure that controls are in place that would protect water quality and reduce the discharge of pollutants to the maximum

extent practicable. MS4s are encouraged to follow applicable guidance available from the Department and/ or EPA.

c) develop, implement, and provide adequate resources for a program to inspect development and re-development sites and to enforce and penalize violators;

d) develop measurable goals and select appropriate management practices to ensure the reduction of all pollutants of concern in the post-development stormwater discharges to the maximum extent practicable.

6. Pollution Prevention/Good Housekeeping For Municipal Operations.

An MS4 must, at a minimum:

a) develop and implement an operation and maintenance program that is designed to reduce and prevent the discharge of pollutants to the maximum extent practicable from municipal activities, including but not limited to park and open space maintenance, fleet and building maintenance, new construction and land disturbances, stormwater system maintenance, roadway and right-of-way maintenance, marine operations, and hydrologic habitat modification. The operation and maintenance program must include a training component.

b) follow management practices identified in the *NYS Management Practices Catalogue for Nonpoint Source Pollution Prevention* or other equivalent guidance materials available from the EPA, New York State, or other organization. Examples of the *NYS Management Practices Catalogues* available include Roadway and Right-of-Way Maintenance, Marine Operations, and Hydrologic Habitat Modification.

c) develop measurable goals and select appropriate management practices to ensure the reduction of all pollutants of concern in stormwater discharges from the MS4 to the maximum extent practicable.

D. Cooperation between MS4s Encouraged

The Department encourages MS4s to cooperate whenever and wherever possible when

developing and implementing their stormwater program¹⁴. However, each MS4 is responsible for obtaining its own permit coverage and for filing its own Notice of Intent. If one MS4 is relying on another MS4 regulated under Section 122 of the stormwater regulations to satisfy one or more of its permit obligations, that fact must be noted in both MS4's NOIs. The other entity must, in fact, implement the control measure(s) and must agree to implement the control measure on the first MS4's behalf. This agreement between the two or more parties must be documented in writing, signed by both parties, included in the stormwater management program, and be retained by the permittee for the duration of this permit, including any automatic extensions of the permit term. Irrespective of any agreements between MS4s, each individual MS4 remains jointly and severally liable for its own discharges.

Part V. Monitoring, Recordkeeping, Reporting and Certification Requirements

A. Monitoring

The operator must conduct an annual evaluation of its program compliance, the appropriateness of its identified management practices, and progress towards achieving its identified measurable goals, which must include reducing the discharge of pollutants to the maximum extent practicable (MEP). The Department may, at its discretion, require monitoring of discharge(s) from the permitted activity after notifying the permittee in writing of the basis for such monitoring, the parameters and frequency at which monitoring shall occur, the analytical protocols which shall be followed, and the associated reporting requirements, if any.

B. Recordkeeping

The operator must keep records required by this permit for at least five (5) years after they are generated. Records must be submitted to the Department when specifically asked for. Records, including the Notice of Intent (NOI) and the stormwater management program (SWMP), must be available to the public at reasonable times during regular business hours within 10 working days of its approval by the permitting authority. (Operators may assess a reasonable charge for copying and may require a member of the

¹⁴ For example, villages are encouraged to cooperate with towns, towns with counties, and adjacent counties with each other. In addition, municipal governments are encouraged to coordinate and cooperate with "non-traditional" MS4s such as DOT, school and fire districts, federal and State facilities located within and adjacent to their jurisdictions.

public to provide advance notice, not to exceed five (5) working days.)

C. Reporting

Reports for the annual period ending March 10 must be submitted to the appropriate Department Regional Office (See Appendix A) no later than June 1 of each year in a format specified by the Department. The report must include:

1. The status of compliance with permit conditions, an assessment of the appropriateness of the identified management practices, progress towards achieving the statutory goal of reducing the discharge of pollutants to the MEP and the identified measurable goals for each of the minimum control measures;
2. Results of information collected and analyzed, including the identification of any illicit discharges detected, the existence of any physically interconnected MS4s which may contribute substantially to pollutant loadings from the MS4, and monitoring data, sufficient to assess the MS4's program toward the statutory goal of reducing the discharge of pollutants to the MEP during the reporting period;
3. A summary of the stormwater activities planned to undertake during the next year (including an implementation schedule);
4. A change in any identified measurable goals that apply to the program elements;
5. Notice that an MS4 is relying on another government entity to satisfy some of its permit obligations (if applicable);
6. A summary of the public comments received on this annual report at the public presentation required in Part IV.B.2.e. And, as appropriate, how the MS4 will respond to or incorporate these concerns into the program;
7. Evidence that the final report is available for public inspection.

D. Certification

In addition to the reporting required in Part V.C. above, each MS4 covered by this permit must annually submit a Municipal Compliance Certification (MCC), on a form to be

provided by the Department, certifying that all applicable conditions of Part IV of this permit are being implemented and complied with. The MCC must be submitted, either with the report described in Part V.C. or subsequent to such report, no later than June 1 of each year. It must be signed by the same entity allowed to sign the NOI as described in Part VI.I.1. The certification provided by the MCC does not affect, replace or negate the certification required under Part VI. I. 2. d. If implementation of and/or compliance with any requirement cannot be certified to by the MCC, a description of why implementation/compliance is not being achieved and what is being done to implement/comply must be included in the MCC.

The Department will make all submitted MCC's available for public review and audit. The Department will also make available for public review any other reports submitted under this permit which are requested to provide clarification of information submitted on MCC's.

Part VI. Standard Permit Conditions

A. Duty To Comply

An operator must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the CWA and the Environmental Conservation Law and is grounds for enforcement action, permit termination, revocation, reissuance, or modification; or for denial of a permit renewal application.

B. Penalties for Violations of Permit Conditions.

There are substantial criminal, civil, and administrative penalties associated with violating the provisions of this permit. The Department may issue an administrative complaint or bring a civil suit in State or the U.S. District Court against persons who violate the terms of a permit. Penalties can be as much as \$25,000 per violation per day. Stiffer penalties are authorized for criminal violations of the Act - for negligent or knowing violations of as much as \$50,000 per day, 3 years' imprisonment, or both. A fine of as much as \$250,000, 15 years in prison, or both, is authorized for 'knowing endangerment' violations that knowingly place another person in imminent danger of death or serious bodily injury. Finally, EPA is authorized to assess civil penalties administratively for certain well-documented violations of the law. These civil and criminal enforcement provisions are contained in section 309 of the Act. Lastly,

violations of the terms of this permit could subject an MS4 to a citizen suit under the Clean Water Act.

C. Continuation of the Expired General Permit

This permit expires five (5) years after issuance on January 8, 2008. However, an expired general permit continues in force and effect until the Department issues a new one unless an MS4 receives written notice from the Department to the contrary. Operators seeking authorization under a new general permit must submit a new NOI in accordance with the terms of such new general permit.

D. Technology Standards

Operators must comply with all applicable technology-based effluent standards or limitations promulgated by EPA pursuant to Sections 301 and 304 of the CWA. If an effluent standard or limitation more stringent than any effluent limitation in the permit or controlling a pollutant not limited in the permit is promulgated or approved after the permit is issued, the SWMP shall be promptly modified to include that effluent standard or limitation.

E. Need To Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

F. Duty to Mitigate

An MS4 must take all reasonable steps as soon as possible to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

G. Duty to Provide Information

An MS4 must furnish to the Department or an authorized representative of the Department any information which is requested to determine compliance with this permit

or other information. Any refusal to provide requested information shall be a violation of the terms of this permit.

H. Other Information

Operators who become aware of a failure to submit any relevant facts or have submitted incorrect information in the Notice of Intent or in any other report to the Department must promptly submit such facts or information.

I. Signatory Requirements

All Notices of Intent, reports, certifications or information submitted to the Department, or that this permit requires be maintained by the operator, shall be signed as follows:

1. All Notices of Intent shall be signed by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes (1) the chief executive officer of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).
2. All reports required by the permit and other information requested by the Department or authorized representative of the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a) The authorization is made in writing by a person described above and submitted to the Department.
 - b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the MS4. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).
 - c) Changes to authorization. If an authorization is no longer accurate because a different MS4 has responsibility for the overall operation of a former MS4, a new

notice of intent with corrected information must be submitted to the Department by the newly responsible MS4.

- d) Certification. Any person signing documents under paragraph VI.G shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

J. Penalties for Falsification of Reports

Section 309(c)(4) of the Clean Water Act provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than two years, or by both.

K. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve an MS4 from any responsibilities, liabilities, or penalties to which it is or may be subject under section 311 of the CWA or section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

L. Property Rights

The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

M. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

N. Requiring an Individual Permit or an Alternative General Permit

1. In its sole discretion, the Department may require any person authorized by this permit to apply for and/or obtain either an individual SPDES permit or an alternative SPDES general permit. Any interested person may petition the Department to take action under this paragraph. Where the DEC requires an MS4 to apply for an individual SPDES permit, the DEC will notify it in writing that a permit application is required. This notification shall include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for filing the application, and a statement that on the effective date of issuance or denial of the individual SPDES permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit shall automatically terminate. Applications must be submitted to the appropriate Regional Office . The DEC may grant additional time to submit the application upon request of the applicant. If an MS4 fails to submit in a timely manner an individual SPDES permit application as required by the DEC under this paragraph, then its coverage under this permit is automatically terminated at the end of the day specified by the DEC for application submittal.
2. Any operator authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. In such cases, an operator must submit an individual application in accordance with the requirements of 40 CFR 122.26(c)(1)(ii), with reasons supporting the request, to the DEC at the address for the appropriate Regional Office. The request may be granted by issuance of any individual permit or an alternative general permit if the reasons cited by the MS4 are adequate to support the request.
3. When an individual SPDES permit is issued to a operator otherwise subject to this permit, or the operator is authorized to discharge under an alternative SPDES general permit, the applicability of this permit to the individual SPDES permittee is

automatically terminated. Termination is immediate on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever is applicable. When an individual SPDES permit is denied to an operator otherwise subject to this permit, or the operator is denied for coverage under an alternative SPDES general permit, the applicability of this permit to the individual SPDES permittee is automatically terminated on the date of such denial, unless otherwise specified by the DEC.

O. Other State Environmental Laws

1. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve an MS4 from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by section 510 of the Clean Water Act.
2. No condition of this permit releases the MS4 from any responsibility or requirements under other environmental statutes or regulations.

P. Proper Operation and Maintenance

An MS4 must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the MS4 to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of the permit.

Q. Inspection and Entry

An MS4 must allow the DEC or an authorized representative of EPA or the State, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter the premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;
2. Have access to and copy at reasonable times, any records that must be kept under the

conditions of this permit; and

3. Inspect at reasonable times any facilities or equipment (including monitoring and control equipment).

R. Permit Actions

This permit may be modified, revoked, reissued, or terminated for cause at any time. The filing of a request for a permit modification, revocation, reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay the obligation to comply with any permit condition.

Part VII. Definitions

All definitions contained in Section 502 of the Act and 40 CFR 122 shall apply to this permit and are incorporated herein by reference. For convenience, simplified explanations of some regulatory/statutory definitions have been provided in footnotes and elsewhere herein, but in the event of a conflict, the definition found in the Statute or Regulation takes precedence.

Part VIII Re-opener Clause

If there is evidence indicating that the stormwater discharges authorized by this permit cause or have the reasonable potential to cause or contribute to a violation of a water quality standard, the MS4 may be required at the Department's sole discretion to obtain an individual permit or an alternative general permit or the permit may be modified to include different limitations and/or requirements. In addition, coverage under this permit could terminate, meaning the discharge must cease.

Permit modification or revocation will be conducted according to 40 CFR 122.62, 122.63, 122.64 and 124.5 and 6NYCRR Part 621 Uniform Procedure.

APPENDIX A
List of NYS DEC Regional Offices

<u>Region</u>	<u>Covering the following counties:</u>	<u>DIVISION OF ENVIRONMENTAL PERMITS (DEP) Permit Administrators</u>	<u>DIVISION OF WATER (DOW) Water (SPDES) Program</u>
1	Nassau and Suffolk	Bldg 40 - SUNY @ Stony Brook Stony Brook, NY 11790-2356 Tel. (631) 444-0365	Bldg 40 - SUNY @ Stony Brook Stony Brook, NY 11790-2356 Tel. (631) 444-0405
2	Bronx, Kings, New York, Queens and Richmond	1 Hunters Point Plaza, 47-40 21st St. Long Island City, NY 11101-5407 Tel. (718) 482-4997	1 Hunters Point Plaza, 47-40 21st St. Long Island City, NY 11101-5407 Tel. (718) 482-4933
3	Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster and Westchester	21 South Putt Corners Road New Paltz, NY 12561-1696 Tel. (845) 256-3054	200 White Plains Road, 5 th Floor Tarrytown, NY 10591-5805 Tel. (914) 332-1835
4	Albany, Columbia, Delaware, Greene, Montgomery, Otsego, Rensselaer, Schenectady and Schoharie	1150 North Westcott Road Schenectady, NY 12306-2014 Tel. (518) 357-2069	1150 North Westcott Road Schenectady, NY 12306-2014 Tel. (518) 357-2045
5	Clinton, Essex, Franklin, Fulton, Hamilton, Saratoga, Warren and Washington	Route 86, PO Box 296 Ray Brook, NY 12977-0296 Tel. (518) 897-1234	Hudson Street Extension Warrensburg, NY 12885-0220 Tel. (518) 623-3671
6	Herkimer, Jefferson, Lewis, Oneida and St. Lawrence	State Office Building 317 Washington Street Watertown, NY 13601-3787 Tel. (315) 785-2245	State Office Building 207 Genesee Street Utica, NY 13501-2885 Tel. (315) 793-2554
7	Broome, Cayuga, Chenango, Cortland, Madison, Onondaga, Oswego, Tioga and Tompkins	615 Erie Blvd. West Syracuse, NY 13204-2400 Tel. (315) 426-7438	615 Erie Blvd. West Syracuse, NY 13204-2400 Tel. (315) 426-7500
8	Chemung, Genesee, Livingston, Monroe, Ontario, Orleans, Schuyler, Seneca, Steuben, Wayne and Yates	6274 East Avon-Lima Road Avon, NY 14414-9519 Tel. (585) 226-2466	6274 East Avon-Lima Rd. Avon, NY 14414-9519 Tel. (585) 226-2466
9	Allegany, Cattaraugus, Chautauqua, Erie, Niagara and Wyoming	270 Michigan Avenue Buffalo, NY 14203-2999 Tel. (716) 851-7165	270 Michigan Ave. Buffalo, NY 14203-2999 Tel. (716) 851-7070